

Chapter 7

CONSULTATION AND PUBLIC PARTICIPATION

Finding a way to meet the need: Since 1998 the Cape Cod Conservation District (CCCD) has received more requests for assistance for stormwater remediation to clean up runoff affecting shellfish areas under the Conservation Technical Assistance Program than it could address. The Coastal Resources Committee of the Barnstable County Commission (BCC) also recognized the increasing problems affecting shellfish, degraded salt marshes, and anadromous fish passages, but it has limited resources to address them. The CCCD and the BCC requested assistance from NRCS on October 9, 2002, to try to address these concerns.

The NRCS Small Watershed Program is designed to “fill the gaps” and not replace or compete with existing programs. During the planning process it became apparent that the problems were many and NRCS help would be appreciated.

Project Sponsors

There are many local, state, and federal agencies that have direct interests and responsibilities for shellfish, salt marshes, and fish passages on Cape Cod. At the initiation of the planning process, NRCS met with local town officials, shellfish wardens, citizens, and state and federal agencies to further define the problems and collect existing information. This process led to establishing new partnerships and strengthening existing ones.

The initial Project sponsors are the CCCD and the BCC. The third sponsor is the Executive Office of Environmental Affairs, representing the Office of Coastal Zone Management (salt marsh) and the Division of Marine Fisheries (shellfish and anadromous fish). Assistance from these state agencies has been crucial for data collection and analysis. Each of the 15 towns in Barnstable County was included as a Project sponsor since each site-specific project will be implemented and maintained by a town.

Public Participation

The Cape Cod Commission’s Regional Policy Plan and the EOEA Watershed Assessment and Action Plan both list stormwater runoff, fish passage, and salt marsh restoration as priority goals/objectives identified through their public surveys.

The Barnstable County Commission’s Coastal Resources Committee hosted an initial meeting in Barnstable on October 11, 2001. Support was unanimous for continued development of the Project under the Small Watershed Program to help restore the area’s natural resources. Over the next four years local, state, and federal officials were contacted for information and guidance. Several articles were published in newspapers informing the public of the problems and opportunities with restoring degraded salt marshes and anadromous fish runs, and improving water quality for shellfish beds. A public meeting was held on May 18, 2005, to seek public input on the watershed plan then in early stages of development. In addition to NRCS staff, Cape Cod Conservation District representatives, and Barnstable County commissioners, over 300 citizens attended the meeting. Attendees made 24 statements in favor of the project and none opposed.

The CCCD mailed information on the project to over 400 citizens, town officials, and state and federal representatives asking for their opinions and support. The CCCD and NRCS partnership also met individually with Wampanoag Tribe of Gay Head (Aquinnah) Tribe and the Mashpee Wampanoag Tribe.

Planning Team

An Interdisciplinary Planning Team provided for the “technical” administration of this Project. Technical administration includes tasks pursuant to the NRCS nine step planning process, and planning procedures outlined in the NRCS-National Planning Procedures Handbook. Examples of tasks completed by the planning team include, but are not limited to, Preliminary Investigations, Resource Inventorying, Analysis of Resource Data, Formulating and Evaluating Alternatives.

- More than 160 stormwater discharge sites were evaluated to determine if there is a feasible solution, delineate drainage area, check soils, and develop a cost estimate.
- Approximately 182 tidal restriction sites were evaluated to measure the existing culvert, estimate degree of restriction, identify any construction concerns (utilities, recent work, etc) and develop a cost estimate.
- Based on the DMF inventory of 93 obstructed or partially obstructed fish passages, the planning team worked with DMF to develop cost estimates and identify issues affecting fish passage improvements.

Data collected from partner agencies, databases, landowners, and others throughout the entire planning process were evaluated. Informal discussions among the planning team, partner agencies, and landowners were conducted throughout the entire planning period

Technical Advisory Group

The following organizations were involved in the development of this plan and provided technical support, information, data analysis, and guidance:

- Cape Cod Conservation District
- Cape Cod Commission
- Barnstable County Commissioners
- Barnstable County Coastal Resources Committee
- Executive Office of Environmental Affairs
- Massachusetts Division of Marine Fisheries
- Massachusetts Office of Coastal Zone Management
- Massachusetts Department of Fish and Game
- Massachusetts Department of Environmental Protection
- Massachusetts Department of Agricultural Resources
- Massachusetts Highway Department
- National Park Service
- National Oceanic and Atmospheric Administration
- U.S. Army Corps of Engineers
- U.S. Fish and Wildlife Service
- Buzzards Bay Project - National Estuary Program
- Mashpee Wampanoag Tribe

- Town boards of health, natural resource departments, conservation commissions, shellfish wardens, and harbor masters.

Meetings held with these organizations are summarized in Table 7-1.

**Table 7-1
Meetings for consultation and public involvement**

Date	Purpose	Participating organizations
10-11-2001	Initial public meeting to assess support	<ul style="list-style-type: none"> • Barnstable County Commission's Coastal Resources Committee • Area Shellfishermen • Massachusetts Division of Marine Fisheries • Waquoit Bay National Estuarine Reserve • Brewster Natural Resources • Barnstable County Extension • Sandwich Conservation Commission • Coastal Management Shellfish Bed Restoration Program • Citizens • Massachusetts Office of Coastal Zone Management • Dennis Natural Resources • Cape Cod Conservation District
11-2001	Discuss the proposed Project	<ul style="list-style-type: none"> • County Commissioners • Cape Cod Conservation District
1-2002	Discuss the proposed Project	<ul style="list-style-type: none"> • Congressmen Delahunt's staff • Cape Cod Conservation District
11-2002	Present the proposed Project	<ul style="list-style-type: none"> • Coastal Resources Committee • Cape Cod Conservation District
12-2002	Discuss the proposed Project	<ul style="list-style-type: none"> • Representative Murray's staff
12-2002	Discuss the proposed Project	<ul style="list-style-type: none"> • Barnstable County Shellfish Officers Committee • Cape Cod Conservation District
1-2003	Present the proposed Project	<ul style="list-style-type: none"> • Executive Office of Environmental Affairs Watershed Team
2-2003	Discuss the proposed Project	<ul style="list-style-type: none"> • Massachusetts Office of Coastal Zone Management
3-2003	Discuss the proposed Project	<ul style="list-style-type: none"> • Barnstable County Commissioners • Cape Cod Conservation District
3-25-2003	Discuss anadromous fish habitat problems on Cape Cod	<ul style="list-style-type: none"> • Massachusetts Division of Marine Fisheries

**Table 7-1 (cont.)
Meetings for consultation and public involvement**

Date	Purpose	Participating organizations
5-2003	Discuss the proposed Project	<ul style="list-style-type: none"> • Senator O’Leary’s staff • Cape Cod Conservation District
5-2003	Discuss the proposed Project	<ul style="list-style-type: none"> • Northeast Regional Implementation Team of Coastal America
4-29-2003		<ul style="list-style-type: none"> • U.S. Army Corps of Engineers • National Oceanic and Atmospheric Administration • Department of Housing and Urban Development • U.S. Geological Survey • U.S. Environmental Protection Agency • U.S. Fish and Wildlife Service • Massachusetts Executive Office of Environmental Affairs - River Restore • Massachusetts Executive Office of Environmental Affairs - Wetland Restoration
11-12-2003	Discuss the proposed Project	<ul style="list-style-type: none"> • Massachusetts Office of Coastal Zone Management
12-2003	Discuss the proposed Project	<ul style="list-style-type: none"> • Cape Cod Conservation District • Barnstable County Commissioners
2-10-2004	Discuss stormwater management	<ul style="list-style-type: none"> • Dennis and Yarmouth Departments of Public Works • Department of Natural Resources • Massachusetts Office of Coastal Zone Management • Massachusetts Division of Marine Fisheries
2-25-2004	CRC Presentation	<ul style="list-style-type: none"> • All Barnstable County towns represented
4-14-2004	Discuss the proposed Project	<ul style="list-style-type: none"> • County Commissioners
4-23-2004	Review of criteria for stormwater sites	<ul style="list-style-type: none"> • Massachusetts Division of Marine Fisheries, Shellfish Division Leaders
4-24-2004	Presentation on the proposed Project	<ul style="list-style-type: none"> • Cape Cod Museum of Natural History Members • Citizens
5-19-2004	Presentation on the proposed Project	<ul style="list-style-type: none"> • Cape Cod Commission: Planner and Groundwater Specialist
5-19-2004	Presentation on the proposed Project	<ul style="list-style-type: none"> • Town of Bourne Selectmen • Department of Public Works • Conservation Commission • Bourne Department of Natural Resources
10-12-2004	Discuss salt marsh modeling	<ul style="list-style-type: none"> • Salt Marsh Scientist Advisory Group

**Table 7-1 (cont.)
Meetings for consultation and public involvement**

Date	Purpose	Participating organizations
10-14-2004	Presentation on the proposed Project	<ul style="list-style-type: none"> • Barnstable County Shellfish Officers
10-18-2004	Presentation on the proposed Project	<ul style="list-style-type: none"> • Coastal America Northeast Regional Implementation Team
11-03-2004	Discuss the proposed Project	<ul style="list-style-type: none"> • Cape Cod Conservation District meeting with C. Young, J. Ryder at Congressman Delahunt's Quincy Office
12-01-2004	Discuss the proposed Project	<ul style="list-style-type: none"> • Department of Environmental Protection (Commissioner and Director of Southeast Regional Office)
3-9-2005	Discuss the proposed Project	<ul style="list-style-type: none"> • Barnstable County Commissioners and Coastal Resources Committee • Cape Cod Conservation District
3-10-2005	Discuss the proposed Project	<ul style="list-style-type: none"> • Mashpee Wampanoag Tribe: President and Vice President of Tribal Council (Marshall and Hendricks)
4-6-2005	Discuss the proposed Project	<ul style="list-style-type: none"> • Senator O'Leary's staff • Senator Murray's staff • Cape Cod Conservation District
5-12-2005	Discuss the proposed Project and DEP models for embayments	<ul style="list-style-type: none"> • Department of Environmental Protection Estuary Program
5-18-2005	Public meeting	<ul style="list-style-type: none"> • NRCS • Cape Cod Conservation District • Barnstable County Commissioners • Public citizens
6-12-2006	Discuss the proposed Project	<ul style="list-style-type: none"> • EOEa Director of Water Policy • CZM Assistant Director and staff
8-24-2006	Discuss the proposed Project	<ul style="list-style-type: none"> • DMF Director and staff
10-4-2006	Discuss the proposed Project	<ul style="list-style-type: none"> • Cape Cod Conservation District • Barnstable County Commissioners • Congressman Delahunt's staff • Senator Kerry's staff • State Senator O'Leary's staff • State Senator Murray's staff • Representative Perry's staff • Nantucket Conservation District

Plan Review and Development

A Pre-Draft version of this Watershed Plan-Areawide Environmental Impact Statement (Plan-EIS) was submitted to the NRCS-National Water Management Center, Project Sponsors, Planning Team, Technical Advisory Group, and town resource staff for formal Interagency Review. Comments received from these reviewers were incorporated into the Draft Plan-EIS made available to the public for review in August 2006.

NEPA Public Review

NRCS published a notice of intent to prepare the Plan-EIS in the *Federal Register* on June 24, 2005, and it published a notice of availability of the Draft Plan-EIS for public review in the *Federal Register* on August 1, 2006. NRCS sent a news release on the Draft Plan-EIS to 31 local media outlets on August 4, 2006, and published a legal notice of availability in the *Cape Cod Times* on August 9, 2006. The U.S. Environmental Protection Agency published a notice of availability of the Draft Plan-EIS in the *Federal Register* on August 11, 2006. This EPA notice started the 45-day public review period required for a Draft EIS under NEPA. NRCS distributed 68 copies of the document to individuals, nongovernmental environmental organizations, government agencies, political representatives, and the Wampanoag Tribe of Gay Head Aquinnah. NRCS also placed copies of the Draft Plan-EIS in the public libraries in each of the 15 towns on Cape Cod, and it made a copy available for downloading on its web site: http://www.ma.nrcs.usda.gov/news/news_CCWRRP_draftEIS.html. Copies of the Federal Register notices, the legal notice, the news release, the list of media outlets, and the distribution list are provided in Appendix A. The 45-day public review period ended on September 25, 2006.

Comments on the Draft Plan-EIS were received from two State Representatives, 16 governmental agencies, and one nongovernmental organization. All local and state commenters supported the Project. No comments of opposition to the project were received during the 45-day review period, and no new issues of concern were raised. Minor revisions were made to the Final Plan-EIS based on comments received. Table 7-2 summarizes the comments received (including several received after the official review period ended) and notes the change, if any, made to the Plan-EIS. Comment letters are provided in Appendix A.

Consultation Under Section 106, National Historic Preservation Act

On March 22, 2006, NRCS sent letters describing the Cape Cod Water Resources Restoration Project to the State Historic Preservation Officer and the Tribal Historic Preservation Officer for the Wampanoag Tribe of Gay Head Aquinnah (Appendix A). As stated in the letters, NRCS will complete the consultation required under Section 106 for each project that is brought forward for funding and implementation. NRCS will consult the State and Tribal Historic Preservation Officers during the Environmental Evaluation conducted for each project.

Consultation Under Section 7, Endangered Species Act

On April 5, 2006, NRCS sent letters describing the Cape Cod Water Resources Restoration Project to the U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration. In a letter of June 21, 2006, USFWS stated that no federally listed or proposed threatened or endangered species or critical habitat was known to exist in the project areas, and no further consultation under Section 7 is required. NOAA, in a letter of April 20, 2006, stated that nine federally listed whale and sea turtle species occur seasonally in the waters off of Cape Cod and requested that NRCS make a determination of

the effect of its proposed Project on these species. NRCS responded, in a letter of July 6, 2006, with a determination of no effect from proposed project activities, and NOAA concurred with that determination in a letter of July 21, 2006. NOAA also stated that no further consultation under Section 7 is required. USFWS and NOAA letters are provided in Appendix A.

**Table 7-2
Comments and responses**

Comment	Commenter	Response
1 Support Project	Cape Cod Commission (9-8-06) Barnstable Association for Recreational Shellfishing (9-14-06) Association to Preserve Cape Cod (9-15-06) Massachusetts Office of Coastal Zone Management (9-15-06) Massachusetts Department of Environmental Protection (9-20-06) State Representative Demetrius J. Atsalis (9-20-06) U.S. Environmental Protection Agency (9-21-06) Town of Barnstable Conservation Division (10-2-06) Town of Barnstable, Town Manager (10-10-06) Town of Dennis Board of Selectmen (10-10-06) National Park Service, Cape Cod National Seashore (10-10-06) Town of Brewster Board of Selectmen (10-11-06) Town of Yarmouth, Town Administrator (10-11-06) National Oceanic and Atmospheric Administration Restoration Center Northeast Region (10-12-06) Town of Bourne, Town Administrator (10-17-06) State Representative Jeffrey Davis Perry (10-20-06)	No response necessary
2 Project sites fall within Priority Habitat and Estimated Habitat, which requires further case-by-case review.	Massachusetts Division of Fisheries and Wildlife (9-5-06)	No change to document necessary. Need for additional consultation on state protected species is already described in §§ 6.3.7, 8.2, and 8.3.

**Table 7-2 (cont.)
Comments and responses**

	Comment	Commenter	Response
3	Consult with Division of Marine Fisheries for improvements to anadromous fish runs.	Massachusetts Division of Fisheries and Wildlife (9-5-06)	No change to document necessary. DMF is a project partner and has been consulted throughout the planning process.
4	Section 10 and 404 permits may be required for some projects.	U.S. Army Corps of Engineers (9-5-06)	No change to document necessary. Potential need for Section 404/10 permits is already described in § 8.3.
5	Additional review by Cape Cod Commission may be required for individual projects that exceed thresholds defined by the Act.	Cape Cod Commission (9-8-06)	Possible review under the Cape Cod Commission Act has been added to § 8.3.
6	Future project-specific planning should include analysis of alternative designs, more robust diagnosis of environmental diagnosis, and full treatment of post-project monitoring and long-term maintenance.	Cape Cod Commission (9-8-06)	No change to document necessary. As described in §§ 1.0, 2.0, 6.2, and 8.2-8.6, Each future project will be evaluated in more detail, including analysis of site-appropriate, cost-effective alternative designs; monitoring and maintenance requirements; and site-specific environmental impacts.
7	Individual projects should be coordinated with EPA, CZM, DMF, and the Corps	U.S. Environmental Protection Agency (9-21-06)	No change to document necessary. The need for additional consultation with these state and federal agencies is already described in §§ 8.2 and 8.3.
8	Consider including East Harbor (Pilgrim Lake) among sites for this Project	National Park Service, Cape Cod National Seashore (10-10-06)	No change to document necessary. This site was dropped because it was being addressed by others, which was one of the screening criteria (§ 6.1). If the Cape Cod Project is funded and the East Harbor project is proposed for implementation by a Project Sponsor, NRCS will re-evaluate the project for inclusion at that time.
9	Note in the water quality section that tidal restrictions exacerbated fecal pollution and impede fish passage.	National Park Service, Cape Cod National Seashore (10-10-06)	A sentence referencing tidal restrictions and fecal coliforms has been added to § 3.7 based on cited article provided to NRCS. Fish passage is not discussed in § 3.7.

**Table 7-2 (cont.)
Comments and responses**

Comment	Commenter	Response
10 Note that the water quality of Wellfleet's Herring River is impaired for acidity and metals due to diking and drainage.	National Park Service, Cape Cod National Seashore (10-10-06)	No change made to document. Individual sites are not been discussed in §3.7. Appendix C-2 notes that the Herring River is impaired for metals and pH.
11 Include the water quality effects of diking and marsh drainage in § 3.9.	National Park Service, Cape Cod National Seashore (10-10-06)	No change made to document. Some of the effects of tidal restrictions on water quality are already mentioned in §3.9. The cited reference was not provided.
12 Rephrase statement from Cape Cod Atlas on p. 4-1.	National Park Service, Cape Cod National Seashore (10-10-06)	No change made to document. Referenced statement is a quote from Cape Cod Atlas; distinction between "more tolerant of" and "better competitor than" is not considered significant enough to warrant a change.
13 Salt water intrusion was not mentioned as a public concern in Table 5-1.	National Park Service, Cape Cod National Seashore (10-10-06)	No change made to document. Salt water intrusion was not specifically mentioned as a concern in NRCS public meetings, so it is not listed in Table 5-1. Salt water intrusion is mentioned as a possible Project effect in § 6.3.3.
14 Give place names from current USGS quad sheets for restoration sites listed in Table 6-1.	National Park Service, Cape Cod National Seashore (10-10-06)	Locations described in the Cape Cod Atlas have been added to Table 6-1.
15 Projects in Table 6-2 that contribute to all three objectives should be given especially high priority scores.	National Park Service, Cape Cod National Seashore (10-10-06)	No change made to document. The criteria in Table 6-2 apply only to sites selected by DMF specifically for restoration of existing fish passageways. Most sites for which benefits would accrue to all three project objectives are salt marsh restoration projected. The presence of a shellfish resource and an anadromous fish passageway was considered in ranking of salt marsh restoration projects, as described on p. 6-2.
16 Explain different cost estimates given for same project—Wellfleet's Herring River—in Tables 6-1 and 6-3.	National Park Service, Cape Cod National Seashore (10-10-06)	Table 6-3 has been modified to delete the cost for the fish passageway and to refer to the same project in Table 6-1.

**Table 7-2 (cont.)
Comments and responses**

	Comment	Commenter	Response
17	Mention on p. 6-28 that increased tidal flushing would reduce fecal coliform concentrations over shellfish beds.	National Park Service, Cape Cod National Seashore (10-10-06)	A sentence has been added on p. 6-28 as suggested.
18	Consider dredging and flushing projects to remove nitrogen-rich sediment and improve water quality.	Town of Brewster Board of Selectmen (10-11-06)	No change made to document. Dredging or sediment removal projects were not rated as moderate or high concerns after the public scoping process (§ 5), and removing nitrogen-rich sediment would not contribute toward the water quality goal of reduced bacterial contamination for shellfishing waters. As an ancillary benefit, the stormwater projects will help remove nitrogen and sediment from runoff and reduce future loadings to receiving waters.